

Panaji, 1st September, 1977 (Bhadra 10, 1899)

SERIES I No. 22

OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

GOVERNMENT OF GOA, DAMAN AND DIU

Department of Personnel and Administrative Reforms

ORDER

3-17-74-DIV. I

In supersession of Govt. Order No. 3-17-74-SPL dated 30th April 1977, sanction is hereby accorded for creation of one post of Director of Information (Group A, Gazetted) in the pay scale of Rs. 1100-50-1600 with effect from 30th April 1977.

Consequent upon the bifurcation of the existing Department of Information and Tourism into Directorate of Tourism, and Directorate of Information, the Selection grade post of Director of Information and Tourism in the pay scale of Rs. 1100-1600 is hereby held in abeyance until further orders.

This issues with the concurrence of the Finance Department vide U. O. No. F(C)/2213/77 dated 23-7-1977.

By order and in the name of the Administrator of Goa, Daman and Diu.

V. J. Menezes, Under Secretary (Personnel).

Panaji, 23rd August, 1977.

Home Department (Transport and Accommodation)

Notification

HD(T)/1-8/76

The following draft amendment which is proposed to be made to the Goa, Daman and Diu Motor Vehicles Rules, 1965 is hereby pre-published as required by sub-section (1) of section 133 of the Motor Vehicles Act, 1939 (4 of 1939), for information of the persons likely to be affected thereby and notice is hereby given that the said draft amendment will be taken into consideration by the Government on the expiry of thirty days from the date of publication of this Notification in the Official Gazette.

All objections and suggestions to the draft amendment may be forwarded to the Under Secretary to the Government of Goa, Daman and Diu, Home De-

partment, Secretariat, Panaji, before the expiry of thirty days from the date of publication of this Notification in the Official Gazette.

DRAFT AMENDMENT

In exercise of the powers conferred by clause (m) of sub-section (2) of section 68 of the Motor Vehicles Act, 1939 (4 of 1939) and all other powers enabling him in that behalf, the Lieutenant Governor of Goa, Daman and Diu hereby makes the following rules so as to further amend the Goa, Daman and Diu Motor Vehicles Rules, 1965, namely :—

1. *Short title and commencement.*— (1) These rules may be called the Goa, Daman and Diu Motor Vehicles (..... Amendment) Rules, 1977.

(2) They shall come into force at once.

2. *Amendment of rule 4.17.*— In rule 4.17 of the Goa, Daman and Diu Motor Vehicles Rules, 1965, after sub-rule (2), the following sub-rules shall be inserted, namely :—

“(3) The charges for luggage exceeding fifteen kilograms carried in stage carriages other than City Buses, shall be 1/5 of the ticket fare of the respective passenger.

(4) The charges for luggage exceeding five kilograms carried in a City Bus shall be, for every five kilograms or part thereof, 1/5 of the ticket fare of the respective passenger”.

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

K. B. Verekar, Under Secretary (Home).

Panaji, 24th August, 1977.

Agriculture Department

Notification

1-34-73-LSG

In exercise of the powers conferred by sub-section (3) and (4) of section 6 of the Indian Fisheries Act, 1897 (Central Act 4 of 1897) and all other powers enabling him in that behalf and after complying with the requirements of previous publication, the Lieutenant Governor of Goa, Daman and Diu hereby makes the following rules so as to further

amend the Goa, Daman and Diu Fisheries Rules, 1974, namely:—

1. *Short title and commencement.*—(1) These rules may be called the Goa, Daman and Diu Fisheries (Third Amendment) Rules, 1977.

(2) They shall come into force at once.

2. *Insertion of new Rule 17.*—After Rule 16 of the Goa, Daman and Diu Fisheries Rules, 1974 the following rule shall be inserted namely:—

“17. *Schedule of operation of fishing nets:*—

(1) The Director may give a schedule of operation of fishing nets such as rampan, drag net etc. to the licensees for operating their nets.

(2) If the licensee fails to observe the schedule of operation given to him, the Director may cancel the licence given to him.

(3) The authority competent to decide whether the schedule of operation is followed or not, shall be the Director or any other officer authorised by the Government in this behalf by special or general order.”

By order and in the name of the Lieutenant Governor of Goa, Daman and Diu.

F. A. Figueiredo, Under Secretary, Development.

Panaji, 27th August, 1977.

Law and Judiciary Department

Notification

LD/3898/1/77

The following Central Act The Payment of Wages (Amendment) Act, 1977 (Act No. 19 of 1977) which was recently passed by the Parliament and assented to by the President of India on 30-6-77 and published in the Gazette of India Part II, Section I dated 30-6-77 is hereby republished for general information of the public.

B. S. Subbanna, Under Secretary (Law).

Panaji, 19th August, 1977.

The Payment of Wages (Amendment) Act, 1977

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ACT

further to amend the Payment of Wages Act, 1936.

Be it enacted by Parliament in the Twenty-eighth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Payment of Wages (Amendment) Act, 1977.

2. *Amendment of section 7.*—In section 7 of the Payment of Wages Act, 1936, in sub-section (2), after clause (p), the following clause shall be inserted, namely:—

“(q) deductions for contributions to any insurance scheme framed by the Central Government for the benefit of its employees.”

Notification

LD/3898/II/77

The following Central Acts 1) The Presidential and Vice-Presidential Elections (Amendment) Act, 1977 (20 of 1977) and 2) the Yoga Undertakings (Taking over of Management) Act, 1977 (21 of 1977) which were recently passed by the Parliament and assented to by the President of India on 5-7-77 and published in the Gazette of India Part II, Section I dated 5-7-77 are hereby republished for general information of the public.

B. S. Subbanna, Under Secretary (Law).

Panaji, 19th August, 1977.

The Presidential and Vice-Presidential Elections (Amendment) Act, 1977

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further to amend the Presidential and Vice-Presidential Elections Act, 1952.

Be it enacted by Parliament in the Twenty-eighth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Presidential and Vice-Presidential Elections (Amendment) Act, 1977.

2. *Substitution of new Part for Part III of Act 31 of 1952.*—In the Presidential and Vice-Presidential Elections Act, 1952, for Part III, the following Part shall be substituted, namely:—

‘PART III

Disputes regarding elections

13. *Definitions.*—In this Part, unless the context otherwise requires,—

(a) “candidate” means a person who has been or claims to have been duly nominated as a candidate at an election;

(b) “costs” means all costs, charges and expenses of, or incidental to, a trial of an election petition;

(c) “returned candidate” means a candidate whose name has been published under section 12 as duly elected.

14. *Authority to try election petitions.*—(1) No election shall be called in question except by presenting an election petition to the authority specified in sub-section (2).

(2) The authority having jurisdiction to try an election petition shall be the Supreme Court.

(3) Every election petition shall be presented to such authority in accordance with the provisions of this Part and of the rules made by the Supreme Court under article 145.

14A. *Presentation of petition.*—(1) An election petition calling in question an election may be presented on one or more of the grounds specified in sub-section (1) of section 18 and section 19, to the

Supreme Court by any candidate at such election, or —

(i) in the case of Presidential election, by twenty or more electors joined together as petitioners;

(ii) in the case of Vice-Presidential election, by ten or more electors joined together as petitioners.

(2) Any such petition may be presented at any time after the date of publication of the declaration containing the name of the returned candidate at the election under section 12, but not later than thirty days from the date of such publication.

15. *Form of petitions, etc., and procedure.* — Subject to the provisions of this Part, rules made [whether before or after the commencement of the Presidential and Vice-Presidential Elections (Amendment) Act, 1977] by the Supreme Court under article 145 may regulate the form of election petitions, the manner in which they are to be presented, the persons who are to be made parties thereto, the procedure to be adopted in connection therewith and the circumstances in which petitions are to abate, or may be withdrawn, and in which new petitioners may be substituted, and may require security to be given for costs.

16. *Relief that may be claimed by the petitioner.* — A petitioner may claim either of the following declarations: —

(a) that the election of the returned candidate is void;

(b) that the election of the returned candidate is void and that he himself or any other candidate has been duly elected.

17. *Orders of the Supreme Court.* — (1) At the conclusion of the trial of the election petition, the Supreme Court shall make an order —

(a) dismissing the election petition; or

(b) declaring the election of the returned candidate to be void; or

(c) declaring the election of the returned candidate to be void and the petitioner or any other candidate to have been duly elected.

(2) At the time of making an order under sub-section (1), the Supreme Court shall also make an order fixing the total amount of costs payable and specifying the persons by and to whom costs shall be paid.

18. *Grounds for declaring the election of a returned candidate to be void.* — (1) If the Supreme Court is of opinion, —

(a) that the offence of bribery or undue influence at the election has been committed by the returned candidate or by any person with the consent of the returned candidate; or

(b) that the result of the election has been materially affected —

(i) by the improper reception or refusal of a vote, or

(ii) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act; or

(iii) by reason of the fact that the nomination of any candidate (other than the successful candidate), who has not withdrawn his candidature, has been wrongly accepted; or

(c) that the nomination of any candidate has been wrongly rejected or the nomination of the successful candidate has been wrongly accepted;

the Supreme Court shall declare the election of the returned candidate to be void.

(2) For the purposes of this section, the offences of bribery and undue influence at an election have the same meaning as in Chapter IXA of the Indian Penal Code 45 of 1860.

19. *Grounds for which a candidate other than the returned candidate may be declared to have been elected.* — If any person who has lodged an election petition has, in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and the Supreme Court is of opinion that in fact the petitioner or such other candidate received a majority of the valid votes, the Supreme Court shall, after declaring the election of the returned candidate to be void, declare the petitioner or such other candidate, as the case may be, to have been duly elected:

Provided that the petitioner or such other candidate shall not be declared to be duly elected if it is proved that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented calling in question his election.

20. *Transmission of orders to the Central Government and its publication.* — The Supreme Court shall, after announcing the orders made under section 17, send a copy thereof to the Central Government, and on receipt of such copy the Central Government shall forthwith cause the order to be published in the Official Gazette.

The Yoga Undertakings (Taking Over of Management) Act, 1977

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to provide for the taking over of the management of the undertakings of the two Yoga Societies for a limited period in the public interest and in order to secure the proper management thereof and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Twenty-eighth Year of the Republic of India as follows: —

CHAPTER I

Preliminary

1. *Short title and commencement.* — (1) This Act may be called the Yoga Undertakings (Taking Over of Management) Act, 1977.

(2) It shall be deemed to have come into force on the 24th day of May, 1977.

2. *Definitions.*—In this Act, unless the context otherwise requires, —

(a) "Administrator" means the person or body of persons appointed as the Administrator under section 4;

(b) "appointed day" means the 24th day of May, 1977;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "Societies Registration Act" means the Societies Registration Act, 1860, as in force in the Union territory of Delhi;

(e) "two Yoga Societies" means the —

(i) Vishwayatan Yogashram, a society registered under the Societies Registration Act and having its registered office at B-35, Defence Colony, New Delhi, and

(ii) Central Research Institute for Yoga, a society registered under the Societies Registration Act, and having its registered office at Yogashram, Ashok Road, New Delhi,

and the expression "Yoga Society" shall be construed as referring to one of the two Yoga Societies;

(f) words and expressions used herein and not defined, but defined in the Societies Registration Act shall have the meanings, respectively, assigned to them in that Act.

CHAPTER II

Taking over of the management of the undertakings of the two Yoga Societies

3. *Management of the undertakings of the two Yoga Societies.*—(1) On and from the appointed day, and for a period of two years thereafter, the management of the undertakings of the two Yoga Societies shall vest in the Central Government:

Provided that if the Central Government is of opinion that in order to secure the proper management of the undertakings of either, or both, of the Yoga Societies, it is expedient that such management should continue to vest in the Central Government after the expiry of the said period of two years, it may, from time to time, issue directions for the continuance of such management for such period, not exceeding one year at a time, as it may think fit; so, however, that the total period for which such management shall continue to vest in the Central Government shall not, in any case, exceed five years.

(2) The undertaking of each of the two Yoga Societies shall be deemed to include all assets, rights, lease-holds, powers, authorities and privileges and all property, movable and immovable, including lands, buildings, works, workshops, projects, stores, instruments, machinery, aircraft, automobiles and other vehicles, cash balances, reserve funds, investments, and book debts and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership, possession, power or control of each of the two Yoga Societies, whether within or without India, and all books of account, registers, maps, plans and all other documents of whatever nature relating thereto.

(3) Any contract, whether express or implied, or other arrangement, in so far as it relates to the management of the business and affairs of the undertakings of either, or both, of the Yoga Societies, and in force immediately before the appointed day, shall be deemed to have terminated on the appointed day.

(4) All persons in charge of the management of either of the two Yoga Societies, including persons holding offices as directors, managers, members of the Governing Body or Board of Trustees or any other managerial personnel of either, or both, of the Yoga Societies immediately before the appointed day shall be deemed to have vacated their offices as such on the appointed day.

4. *Administrator of the two Yoga Societies.*—

(1) The Central Government shall, as from the appointed day, appoint a person or a body of persons as the Administrator of the undertakings of the two Yoga Societies for the purpose of taking over the management thereof and the Administrator shall carry on the management of the undertakings of the two Yoga Societies for and on behalf of the Central Government.

(2) The Central Government may issue such directions (including directions as to initiating, defending or continuing any legal proceedings before any court, tribunal or other authority) to the Administrator as to his powers and duties as that Government may deem desirable and the Administrator may apply to the Central Government at any time for instructions as to the manner in which he shall conduct the management of the undertakings of the two Yoga Societies or in relation to any matter arising in the course of such management.

(3) Subject to the other provisions of this Act and the rules made thereunder and to the control of the Central Government, the Administrator shall be entitled, notwithstanding anything contained in the Societies Registration Act or in any other law for the time being in force, to exercise, in relation to the undertakings of the two Yoga Societies, the powers of the Governing Body, or, as the case may be, the Board of Trustees, of the respective Yoga Society, including the powers to dispose of any property or assets of such society, whether such powers are derived under any law for the time being in force or from the memorandum and rules and regulations of the concerned Yoga Society or from any other source.

(4) Every person having possession, custody or control of any property forming part of any undertaking of either of the two Yoga Societies shall deliver forthwith such property to the Administrator or to any officer or other employee of the Central Government, as may be authorised by the Central Government in this behalf.

(5) Any person who, on the appointed day, has in his possession or under his control any books, papers or other documents relating to any undertaking of either of the two Yoga Societies, including the minutes books containing the resolutions of the persons in charge of the management of the concerned Yoga Society before the appointed day, the current cheque books relating to the undertakings of the concerned Yoga Society, any letters, memoranda, notes or other communications between him

and either of the two Yoga Societies shall, notwithstanding anything contained in any other law for the time being in force, be liable to account for the books, papers and other documents (including such minutes books, cheque books, letters, memoranda, notes or other communications) to the Administrator or to any such person (being an officer or other employee of the Central Government) as may be authorised by the Central Government in this behalf.

(6) Every person in charge of the management of the undertakings of either of the two Yoga Societies immediately before the appointed day shall, within ten days from that day or within such further period as the Central Government may allow in this behalf, furnish to the Administrator a complete inventory of all the properties and assets (including particulars of book debts and investments and belongings) forming part of the undertakings of the concerned Yoga Society immediately before the appointed day and of all the liabilities and obligations of the concerned Yoga Society, in relation to its undertakings, subsisting immediately before that day, and also of all agreements entered into by either, or both, of the Yoga Societies in relation to its or their undertakings and in force immediately before that day.

(7) The Administrator shall receive from the funds of the two Yoga Societies such remuneration as the Central Government may fix.

5. *No right to compensation for premature termination of a contract.* — Notwithstanding anything contained in any law for the time being in force, no person in respect of whom any contract of management or other arrangement is terminated by reason of the provisions contained in sub-section (3) of section 3 or who ceases to hold any office by reason of the provisions contained in sub-section (4) of that section, shall be entitled to claim any compensation for the premature termination of the contract of management or other arrangement or for the loss of his office.

6. *Relinquishment of management of the two Yoga Societies.* — (1) Notwithstanding anything contained in sub-section (1) of section 3, if, at any time before the expiry of the period referred to in that sub-section, it appears to the Central Government that the purposes of the vesting of the management of the undertakings of either, or both, of the Yoga Societies in that Government have been fulfilled or that for any other reason it is not necessary that the management of the undertakings of either, or both, of the Yoga Societies should remain vested in that Government, it may, by order published in the Official Gazette, relinquish the management of the undertakings of either, or both, of the Yoga Societies with effect from such date as may be specified in the order.

(2) On and from the date specified under sub-section (1), the management of the undertakings of the concerned Yoga Society shall vest in the Governing Body (by whatever name called) of the concerned Yoga Society and such management shall be carried on in accordance with the provisions of the Societies Registration Act, so, however, that the steps, if any, in relation to the management of the undertakings of the concerned Yoga Society

may be taken after the publication of the order under sub-section (1).

7. *Application of Act 21 of 1860.* — (1) Notwithstanding anything contained in the Societies Registration Act or in the memorandum and rules and regulations of either of the two Yoga Societies, but subject to the provisions of sub-section (2) of section 6, so long as the management of the undertakings of the two Yoga Societies remains vested in the Central Government, —

(a) it shall not be lawful for the members of either of the two Yoga Societies or any other person to nominate or appoint any person to be a member of the Governing Body (by whatever name called) of either of the two Yoga Societies;

(b) no resolution passed at any meeting of the members of either of the two Yoga Societies or at any meeting of the Governing Body (by whatever name called) of either of the two Yoga Societies, on or after the appointed day, shall be given effect to unless approved by the Central Government;

(c) no proceeding for the dissolution of either of the two Yoga Societies or for their merger with any other society or for the appointment of a Receiver in respect of any undertaking thereof shall lie in any court except with the consent of the Central Government.

(2) Subject to the provisions contained in sub-section (1) and subject to such other exceptions, restrictions and limitations, if any, as may be prescribed, the Societies Registration Act shall continue to apply to the concerned Yoga Society in the same manner as it applied thereto before the appointed day.

CHAPTER III

Miscellaneous

8. *Penalties.* — Any person who, —

(a) having in his possession or custody or under his control any property forming part of any undertaking of either of the two Yoga Societies, wrongfully withholds such property from the Administrator or any person authorised under this Act, or

(b) wrongfully obtains possession of any such property, or

(c) wilfully retains, or fails to deliver, any property forming part of any of the undertakings of either of the two Yoga Societies or removes or destroys it, or

(d) wilfully withholds or fails to account for any books, papers or other documents which may be in his possession or custody or under his control to the Administrator or any person authorised under this Act, or

(e) fails, without any reasonable cause, to furnish information or particulars as provided in sub-section (6) of section 4,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

9. *Offences by companies.* — (1) Where an offence under this Act has been committed by a company,

every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. — For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

10. *Exclusion of period of operation of Act.* — In computing the period of limitation prescribed by any law for the time being in force for any suit or application against any person by either of the two Yoga Societies in respect of any matter arising out of any transaction in relation to their undertakings, the time during which this Act is in force shall be excluded.

11. *Act to have overriding effect.* — The provisions of this Act or any notification, order or rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Act or in any instrument having effect by virtue of any law other than this Act or in any decree or order of any court.

12. *Protection of action taken in good faith.* — (1) No suit, prosecution or other legal proceeding shall lie against the Administrator or any officer or other employee of the Central Government for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or the Administrator or any of the officers or other employees of the Central Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

13. *Contracts in bad faith may be cancelled or varied.* — (1) If the Central Government is satisfied, after such inquiry as it may think fit, that any contract or agreement entered into at any time within one year immediately preceding the appointed day, between either of the two Yoga Societies and any other person, in so far as such contract or agreement relates to any undertaking of such Yoga Society, has been entered into in bad faith, or is detrimental to the interests of the concerned Yoga Society, it may make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) such contract or agreement and thereafter the contract or agreement shall have effect accordingly:

Provided that no contract or agreement shall be cancelled or varied except after giving to the parties to the contract or agreement a reasonable opportunity of being heard.

(2) Any person aggrieved by an order under sub-section (1) may make an application to the High Court at Delhi for the variation or reversal of such order and thereupon such court may confirm, modify or reverse such order.

14. *Power to terminate contract of employment.* — If the Administrator is of opinion that any contract of employment entered into by either of the two Yoga Societies in relation to their undertakings, at any time before the appointed day, is unduly onerous, he may, by giving to the employee one month's notice in writing or the salary or wages for one month in lieu thereof, terminate such contract of employment.

15. *Power to make rules.* — (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

16. *Repeal and saving.* — (1) The Yoga Undertakings (Taking Over of Management) Ordinance, 1977, is hereby repealed. 8 of 1977.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provision of this Act.